



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 22 2013

OFFICE OF  
AIR AND RADIATION

Mr. Christopher Brennan  
Westlaw Court Express  
1100 13<sup>th</sup> Street, N.W  
Suite 300  
Washington, D.C. 20005

Subject: Freedom of Information Act request, EPA-HQ-2013-004407

Dear Mr. Brennan:

This is in regards to your Freedom of Information Act (FOIA) request, dated March 12, 2013. You requested information regarding the equipment manufacturer flexibility provisions (40 CFR § 1039.625), including equipment manufacturer flexibility notifications of intent, equipment manufacturer reports, email letters, and other reports and other equipment manufacturer flexibility correspondence between the U.S. Environmental Protection Agency and Kubota Corporation and its affiliated companies.

Mr. Melvis Strickland of my staff provided you with the Agency's response which was sent on June 6, 2013. I am following up to provide you with appeals rights:

You may appeal this response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: [hq.foia@epa.gov](mailto:hq.foia@epa.gov). Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the FOIA number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

As noted in our June 6<sup>th</sup> response, the Agency stated that if we did not hear back from you within 20 calendar days that we would conclude your request. This letter verifies that the Agency's June 6<sup>th</sup> response concludes your FOIA request (enclosed).

Sincerely,

A handwritten signature in blue ink, reading "Tanya Meekins", is positioned above the typed name.

Tanya Meekins, FOIA Coordinator  
Office of Transportation and Air Quality

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 6 2013

OFFICE OF  
AIR AND RADIATION

Mr. Christopher Brennan  
WestLaw CourtExpress  
1100 13<sup>th</sup> Street NW  
Suite 300  
Washington, DC 20005

RE: Freedom of Information Act request, EPA-HQ-2013-004407

Dear Mr. Brennan:

This is in response to the Freedom of Information Act ("FOIA") request dated March 12, 2013. You have requested various documents regarding the equipment manufacturer flexibility provisions (40 CFR § 1039.625), including equipment manufacturer flexibility notifications of intent, equipment manufacturer reports, emails, letters, other reports and other equipment manufacturer flexibility correspondence between the U.S. Environmental Protection Agency ("EPA") and Kubota Corporation ("Kubota") and its affiliated companies.

The equipment manufacturer flexibility notification of intent letter(s) and equipment manufacturer flexibility reports that are responsive to your request have been claimed as confidential business information ("CBI") by Kubota. We have contacted Kubota, who has confirmed their CBI claim. They have also authorized EPA to release to you redacted versions of their other responsive records. As stated in our telephone discussions, Kubota is an integrated manufacturer producing both equipment manufacturer flexibility engines for itself and its clients as well as producing flexibility equipment. The attached documents pertain primarily to Kubota as an equipment manufacturer as agreed upon in our discussions and have been redacted by EPA.

Please review the attached information to determine if you are interested in pursuing the redacted information and the withheld notification letters and annual usage reports. If you are no longer interested in this information, please respond to me in writing within the next twenty (20) calendar days. If we do not hear from you within this twenty-day time frame, we will assume you are no longer interested in this information. If, after you have reviewed the attached documents, you determine that you are still interested in the information that has been claimed as CBI, these documents will need to undergo additional review pursuant to 40 CFR § 2.201 *et. seq.* Such review will be conducted by EPA's Office of General Counsel ("OGC") and will require additional payment of fees in accordance with 40 CFR § 2.107 *et. seq.* Pursuant to 40 CFR § 2.107(e), the Agency will do no further work on your request at this juncture until you agree to pay the total fees estimated to complete CBI review and provide an assurance of payment.

Please understand that you will be required to pay the incurred fees regardless of whether the information is ultimately released or withheld as business confidential. 40 CFR § 2.107(c)(1)(i).

Please contact Melvis Strickland of my staff at (202) 343-9323, if you have any questions. Enclosed is a bill for the amount of \$610.70.

Sincerely,



Justin Greuel, Director  
Diesel Engine Compliance Center

Enclosures



# FOIA Invoice

U.S Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

<b>Mail Payment to</b> USEPA, FOIA and Miscellaneous Payments, Cincinnati Finance Center P.O. BOX 979078 St. Louis, MO 63197-9000		<b>FOIA Tracking Number</b> EPA-HQ-2013-004407
		<b>Invoice Date</b> 08/22/2013
<b>Requester Contact Information</b> Christopher M. Brennan Westlaw Court Express 1100 13th Street NW Suite 300 Washington, DC 20005 christopher.brennan@thomsonreuters.com 202-572-1978		<b>Description of Records Requested</b> Tuesday, March 12, 2013  National Freedom of Information Officer U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW (2822T) Washington, DC 20460 (202) 566-1667  Re: Freedom of Information Act Request  Dear Sir or Madam:
<b>Request Received</b>	<b>Date</b> 03/12/2013	<b>By</b> Office of Transportation and Air Quality
<b>Request Fulfilled by Agency</b>	<b>Date</b> 08/22/2013	<b>By</b> Tanya Meekins
<b>Comments/Instructions</b>          		
<b>Description of Costs</b>	<b>Quantity</b>	<b>Amount (USD)</b>
Search	8.0 hours	\$224.00
Review	12.0 hours	\$336.00
Copy	338 pages	\$50.70
<b>AMOUNT DUE</b>		<b>\$610.70</b>